

## Message Text

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71

ACTION SCI-06

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FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 3540

INFO AEC GERMANTOWN

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E.O. 11652: N/A

TAGS: PARM, IAEA, US

SUBJECT: REDRAFT OF PROPOSED US-IAEA SAFEGUARDS AGREEMENT

REF: (A) STATE 187563; (B) IAEA VIENNA 8400

1. FOLLOWING ARE PROPOSED CHANGES TO BALANCE OF PART I OF AGREEMENT (11/2/72 DRAFT) IF PROPOSED REDRAFT PREAMBLE AND ARTICLES 1 THRU 3 PER REFTEL (B) ARE ACCEPTABLE. REFERENCES TO ARTICLES 1, 2 OR 3 IN FOLLOWING ARE TO THOSE ARTICLES REDRAFTED AS PROPOSED REFTEL(B).

2. ARTICLE 4 UNCHANGED.

3. ARTICLE 5 UNCHANGED, EXCEPT IN SUBPARA B(I), INSERT "THE" BEFORE "IMPLEMENTATION" IN THIRD LINE.

4. ARTICLE 6 UNCHANGED.

5. ARTICLE 7 UNCHANGED, EXCEPT FIRST SENTENCE SUBPARA B TO READ "THE AGENCY SHALL APPLY SAFEGUARDS IN ACCORDANCE WITH ARTICLE 3C IN SUCH A MANNER AS TO ENABLE THE AGENCY TO VERIFY FINDINGS OF THE ACCOUNTING AND CONTROL SYSTEM OF THE UNITED STATES."

6. ARTICLE 8 UNCLANGED.

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7. ARTICLE 9 UNCHANGED, EXCEPT, IN SUBPARA 3. (I), SECOND LINE, INSERT "THE" BEFORE "PEACEFUL."

8. ARTICLE 10, UNCHANGED EXCEPT DELETE SUPERScript IN SECOND LINE AND FOOTNOTE.

9. ARTICLE 11 UNCHANGED.

10. ARTICLE 12 REPLACED BY TEXT OF FORMER ARTICLE 13.

11. ARTICLE 13 TO READ IN ENTIRETY "THE UNITED STATES SHALL NOTIFY THE AGENCY, IN ACCORDANCE WITH THE RELEVANT PROVISIONS OF PART II, OF TRANSFERS OF NUCLEAR MATERIAL SUBJECT TO SAFEGUARDS UNDER THIS AGREEMENT OUT OF THE FACILITIES IDENTIFIED BY THE AGENCY PURSUANT TO ARTICLE 2B. THE AGENCY SHALL TERMINATE THE APPLICATION OF SAFEGUARDS TO SUCH MATERIAL WHEN IT IS TRANSFERRED OUT OF THE FACILITY, IN ACCORDANCE WITH THE RELEVANT PROCEDURES PRESCRIBED IN THE PROTOCOL TO THIS AGREEMENT. THE AGENCY SHALL MAINTAIN RECORDS INDICATING EACH TRANSFER AND, WHERE APPLICABLE, THE REAPPLICATION OF SAFEGUARDS TO THE TRANSFERRED NUCLEAR MATERIAL."

12. ARTICLE 14; REPLACE ENTIRE ORIGINAL TEXT WITH SUBPARA (A) AS FOLLOWS: (A) THE UNITED STATES SHALL HAVE THE RIGHT TO TRANSFER NUCLEAR MATERIAL SUBJECT TO SAFEGUARDS UNDER THIS AGREEMENT TO ACTIVITIES WITH DIRECT NATIONAL SECURITY SIGNIFICANCE TO THE UNITED STATES. THE AGENCY SHALL TERMINATE THE APPLICATION OF SAFEGUARDS TO SUCH MATERIAL IN ACCORDANCE WITH THE RELEVANT PROCEDURES PRESCRIBED IN THE PROTOCOL TO THIS AGREEMENT."; AND SUBPARA (B) WITH TEXT AS IN ORIGINAL ARTICLE 14B, WHICH READS "THE UNITED STATES SHALL ASSURE THE AGENCY, ETC."

13. NOTE THAT PROTOCOL WOULD ACCORDINGLY CONTAIN RELATED PROVISIONS WHICH WOULD READ: BEGIN QUOTE

(A) IF THE ACTIVITY WITH DIRECT NATIONAL SECURITY SIGNIFICANCE TO THE UNITED STATES, TO WHICH NUCLEAR MATERIAL SUBJECT TO SAFEGUARDS UNDER THIS AGREEMENT IS TO LIMITED OFFICIAL USE

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BE TRANSFERRED, IS ASSOCIATED WITH THE FACILITY IN WHICH THE NUCLEAR MATERIAL IS ALREADY LOCATED, THE FOLLOWING PROCEDURES SHALL APPLY:

- I. THE UNITED STATES SHALL INFORM THE AGENCY OF ITS INTENTION AS SOON AS POSSIBLE AND REQUEST THAT THE AGENCY REMOVE THE FACILITY FROM THE LIST PROVIDED BY THE UNITED STATES PURSUANT TO ARTICLE 1B.
- II. THE UNITED STATES SHALL PROVIDE TO THE AGENCY THE ASSURANCE

CALLED FOR IN ARTICLE 14B OF THE AGREEMENT.

III. THE AGENCY SHALL REMOVE THE SPECIFIED FACILITY FROM THE LIST PROVIDED BY THE UNITED STATES PURSUANT TO ARTICLE IB.

IV. THE UNITED STATES WILL, TO THE EXTENT POSSIBLE, PROVIDE AN OPPORTUNITY FOR THE AGENCY TO ESTABLISH, PRIOR TO THE TERMINATION OF THE APPLICATION OF SAFEGUARDS, THE AMOUNTS OF NUCLEAR MATERIAL CONTAINED IN THE SPECIFIED FACILITY.

(B). IF NUCLEAR MATERIAL SUBJECT TO SAFEGUARDS UNDER THE AGREEMENT IS TRANSFERRED TO AN ACTIVITY OTHER THAN ONE ASSOCIATED WITH A FACILITY LISTED BY THE UNITED STATES PURSUANT TO ARTICLE IB, THE AGENCY SHALL TERMINATE THE APPLICATION OF SUCH SAFEGUARDS ON THE MATERIAL, IN ACCORDANCE WITH ARTICLE 13. THE UNITED STATES SHALL ASSURE THE AGENCY THAT THE INTENDED USE OF NUCLEAR MATERIAL SO TRANSFERRED WILL NOT BE IN CONFLICT WITH AN UNDERTAKING THE UNITED STATES MAY HAVE GIVEN AND IN RESPECT OF WHICH AGENCY SAFEGUARDS APPLY, THAT THE MATERIAL WILL BE USED ONLY IN A PEACFUL NUCLEAR ACTIVITY. END QUOTE.

14. ARTICLE 15 UNCHANGED.

15. ARTICLE 16 UNCHANGED, EXCEPT DELETE SUPERScript IN FIFTH LINE AND FOOTNOTE.

16. ARTICLE 17 UNCHANGED.

17. ARTICLE 18 UNCHANGED, EXCEPT DELETE "SHALL BE ABLE TO", AND REPLACE WITH "MAY."

18. ARTICLE 19 UNCHANGED, EXCEPT FULL TEXT, AFTER LIMITED OFFICIAL USE

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"THE BOARD" IN SIXTH LINE, CHANGE TO READ, "MAY MAKE THE REPORTS PROVIDED FOR IN PARAGRAPH C OF ARTICLE XII OF THE STATUTE OF THE AGENCY, AS MAY BE APPROPRIATE, AND MAY ALSO TAKE, WHERE APPLICABLE, THE OTHER MEASURES PROVIDED FOR IN THAT PARAGRAPH." COMMENT: SINCE SUGGESTED LANGUAGE IS PERMISSIVE, WE BELIEVE NO HARM IS DONE IN MAKING SANCTIONS APPEAR SAME AS THOSE IN NNWS'S NPT SAFEGUARDS AGREEMENTS, NOTWITHSTANDING DIFFERENCE IN SIGNIFICANCE OF NON-COMPLIANCE. MOREOVER, PRECEDENT SHOULD BE AVOIDED FOR ANY SAFEGUARDS AGREEMENT TO OMIT SANCTIONS SPECIFIED IN STATUTE. MOST IMPORTANTLY, GOVERNMENTS TO WHOM OFFER DIRECTED ARE LIKELY TO QUESTION ANY APPARENT WEAKENING OF DEGREE OF U.S. COMMITMENT.

19. ARTICLE 20, 21 AND 22 UNCHANGED.

20. ARTICLE 23. RE-NUMBER ORIGINAL AS ARTICLE 24 RPT 24  
SUB PARA (A) AND ADD NEW SUBPARA (B) READING "ALL AMENDMENTS SHALL  
REQUIRE THE AGREEMENT OF THE UNITED STATES AND THE AGENCY."

21. ARTICLE 24 RE-NUMBERED ARTICLE 23 RPT 23.

22. ARTICLE 25 UNCHANGED.

23. ARTICLE 26 UNCHANGED, EXCEPT CHANGE FIFTH LINE TO  
READ "ENSURE THAT IT CONTINUES TO SERVE THE PURPOSE FOR  
WHICH," ETC.

24. PROPOSED REDRAFT PART II AND PROTOCOL WILL FOLLOW  
SHORTLY.PORTER

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## Message Attributes

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**Channel Indicators:** n/a  
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